

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

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JONATHAN HANNAH,

Plaintiff,

Case No. 2:11-cv-494

v.

Honorable R. Allan Edgar

MICHAEL MARTIN, et al.,

Defendants.

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**MEMORANDUM AND ORDER**

On July 10, 2013, U.S. Magistrate Judge Timothy P. Greeley entered a Report and Recommendation ("R&R") granting defendants' summary judgment motion in part and denying it in part, and recommending that some of Plaintiff's claims be dismissed for failure to exhaust. Doc. No. 23.

In his amended complaint, Plaintiff alleges that Defendants Bauman, Martin, and Riley violated his right to a Buddhist diet, in violation of his First Amendment rights and his rights under RLUIPA. Plaintiff further alleges that Defendants Phillipson and Konrad failed to protect him from harm by another prisoner, in violation of his Eighth Amendment rights. Plaintiff alleges that Defendants Konrad and Miron maliciously and falsely told other staff and prisoners that Plaintiff was a homosexual to incite abuse against him, presumably in violation of his Eighth Amendment rights. Plaintiff alleges that he was subsequently subjected to verbal and physical abuse and harassment by staff and other prisoners. Plaintiff also makes slander and defamation claims against Defendants Konrad and Miron. Finally, Plaintiff alleges that Defendant Lindenmuth retaliated against him for writing a grievance by reading

the grievance in front of Plaintiff's cell and allowing others to hear it, in violation of his First Amendment rights.

Plaintiff concedes that Defendant Bauman should be dismissed from this suit. Magistrate Judge Greeley found that Plaintiff had failed to exhaust his administrative remedies against Defendant Riley, who was therefore entitled to dismissal. Magistrate Judge Greeley rejected Defendants Phillipson and Konrad's assertion that Plaintiff had failed to exhaust his claim against them. The Court agrees with Magistrate Judge Greeley's finding that Plaintiff did exhaust this issue. Defendants concede that Plaintiff exhausted the claim that Defendants Miron and Konrad told other prisoners that he was a homosexual, and his retaliation claim against Defendant Lindenmuth.

No objections have been filed to the R&R. After reviewing the record, the Court ACCEPTS and ADOPTS Magistrate Judge Greeley's R&R [Doc. No. 23] as the opinion of the Court pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. L. Civ. R. 72.3(b). Plaintiff's claim against Defendant Bauman is DISMISSED WITH PREJUDICE and Plaintiff's claims against Defendant Riley are DISMISSED WITHOUT PREJUDICE. This case remains pending on the following claims: Plaintiff's First Amendment and RLUIPA claims against Defendant Martin; Plaintiff's Eighth Amendment failure to protect claim against Defendants Phillipson and Konrad; Plaintiff's Eighth Amendment claim against Defendants Konrad and Miron; Plaintiff's slander and defamation claims against Defendants Konrad and Miron; and Plaintiff's First Amendment retaliation claim against Defendant Lindenmuth.

SO ORDERED.

Dated: 9/16/2013

/s/ R. Allan Edgar  
R. Allan Edgar  
United States District Judge